

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE:

SUBPOENA ISSUED BY M. COHEN
AND SONS, INC.

Miscellaneous Action

No. _ _ _ _ _

**DECLARATION OF CORINNE MCCANN TRAINOR IN SUPPORT OF M. COHEN AND SONS,
INC.'S MOTION TO COMPEL COMPLIANCE WITH THE SUBPOENAS DIRECTED TO
STEVEN HOLL ARCHITECTS**

I, Corinne McCann Trainor, do hereby state and declare as follows:

1. I am a partner at the law firm Fox Rothschild LLP and counsel for M. Cohen and Sons, Inc. ("MCS"). I represent MCS in the matter captioned *M. Cohen and Sons, Inc. v. Platte River Insurance Co.*, C.A. 3:20-cv-02149 ZNQ-LHG (the "Underlying Action") in the District of New Jersey. I know the facts stated herein of my own personal knowledge, by virtue of my representation in the Underlying Matter, and through my review of the file, and, if called to testify, would competently testify to the same.

2. I submit this declaration in support of MCS' Motion to Compel Compliance with the Subpoenas directed to Steven Holl Architects ("Motion") with respect to the "Underlying Action".

3. A true and correct copy of the Amended Complaint and exhibits filed in the Underlying Action is attached as **Exhibit A**.

4. A true and correct copy of an excerpt of the agreement between MCS and W. S. Cumby, Inc. is attached as **Exhibit B**.

5. A true and correct copy of an excerpt of the January 20, 2017 Construction Management Agreement between the Institute of Advanced Studies and Cumby is attached as **Exhibit C**.

6. A true and correct copy of the July 9, 2021 Cumby-Platte River Tender Agreement is attached as **Exhibit D**.

7. A true and correct copy of an excerpt of the Genesis-Cumby Completion Subcontract, dated April 30, 2020, is attached as **Exhibit E**.

8. A true and correct copy of the April 14, 2021 Subpoena for Documents sent to Steven Holl Architects (“SHA”) is attached hereto as **Exhibit F**.

9. A true and correct copy of a letter dated May 18, 2021, from Mark Seiden, Esq., counsel for SHA, to Fox Rothschild is attached as **Exhibit G**.

10. On May 19, 2021, Fox Rothschild attorney Stephanie Deviney, who is also counsel of record in the Underlying Action, sent an email to SHA’s attorney and requested to speak with him that Friday, May 21st before 3:00 p.m. Mr. Seiden was not available. A true and correct copy of emails exchanged between Fox Rothschild LLP and SHA’s attorney is attached as **Exhibit H**.

11. During counsel’s meet and confer on June 18, 2021, counsel discussed using a set of agreed upon search criteria to narrow the scope of the subpoena and the provision and discussion of same.

12. A true and correct copy of the August 13, 2021 letter and subpoena ad testificandum to Christina Yessios, employee of SHA, is attached as **Exhibit I**. Fox Rothchild has not formally served Ms. Yessios given the ongoing dispute regarding SHA’s provision of documents.

13. On August 18, 2021, at my direction, Fox Rothschild attorney Wali Rushdan followed up with Mr. Seiden regarding potential search terms to advance the negotiations. *See* Exhibit H.

14. On August 20, 2021, counsel spoke again regarding the requests for production of documents. Fox Rothschild again proposed using search terms. However, Mr. Seiden indicated for the first time that even with search terms, his view was that MCS’s request was still too broad and burdensome. Instead, Mr. Seiden stated that he preferred to focus on a unique set of issues that he

could in turn search key custodian files for and produce non-privileged documents. Mr. Seiden provided no proposal for consideration. Although Fox Rothschild considered Mr. Seiden's position, for the reasons stated herein, MCS needs SHA's entire Project File and all correspondence relating thereto, along with a privilege log identifying any documents withheld based on any purported privilege.

15. Fox Rothschild followed up with Mr. Seiden on September 1, 2021 to confirm that MCS considered the parties to be at an impasse regarding compliance with the subpoena. *See* Exhibit H.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: September 9, 2021

/s/Corinne McCann Trainor
CORINNE McCANN TRAINOR